

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
May 10, 2012

In the Matter of HILLS, Minors.

No. 304428
Oakland Circuit Court
Family Division
LC No. 2010-777100-NA

Before: DONOFRIO, P.J., and JANSEN and SHAPIRO, JJ.

PER CURIAM.

Respondent appeals as of right from the trial court's order terminating her parental rights to her minor children pursuant to MCL 712A.19b(3)(g) and (j). We affirm.

I. STATUTORY BASES FOR TERMINATION OF PARENTAL RIGHTS

Respondent first argues that the trial court erred in finding that the statutory bases for termination were established by clear and convincing evidence. We disagree.

We review the trial court's findings for clear error. MCR 3.977(K); *In re JK*, 468 Mich 202, 209; 661 NW2d 216 (2003). Deference is given to the trial court's special opportunity to judge the weight of evidence and the credibility of witnesses. *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Because petitioner sought to terminate respondent's parental rights at the initial dispositional hearing, it was required to establish the statutory grounds for termination by legally admissible evidence. MCR 3.977(E)(3); *In re AMAC*, 269 Mich App 533, 537; 711 NW2d 426 (2006).

Although services provided by petitioner to a parent may affect the sufficiency of the evidence in support of a statutory ground for termination, *In re Fried*, 266 Mich App 535, 541; 702 NW2d 192 (2005), a court is authorized to terminate parental rights under either MCL 712A.19b(3)(g) or (j) at the initial dispositional hearing, MCR 3.977(E); *AMAC*, 269 Mich App at 537. Giving appropriate deference to the trial court's assessment of the credibility of the witnesses who appeared before it, we find no clear error in the trial court's determination that both statutory grounds were established.

A. MCL 712A.19b(3)(g)

MCL 712A.19b(3)(g) permits termination of parental rights when:

The parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age.

Respondent does not specifically challenge the trial court's finding that she did not provide proper care or custody. Rather, she argues that the Department of Human Services' failure to provide her with services for mental health treatment and to address the environmental issues in her home mandates reversal. She also argues that there was no need to seek termination immediately because the children were in placement with their father. We disagree.

The evidence establishes that respondent neglected her children in multiple ways before they were removed from her home and placed with their legal father. It is apparent from the trial court's decision that the primary basis for its finding that MCL 712A.19b(3)(g) was established was respondent's failure to provide proper care and custody because of her chronic mental illness, for which respondent failed to seek treatment and was not amenable to treatment. Respondent's own testimony indicates that she failed to recognize the need for psychiatric care, despite prior referrals by numerous physicians. For example, respondent testified as follows:

I don't believe that I followed up with psychotherapy. I had gone through stints of four different types of therapy and they all said the same thing to me. You know, what my certain problems were, and I know what they are, and if feel I need to work with them, I really prefer to do the church; that I find that my faith in Christ really helps me a lot more, and that I can cope with things a lot better and I can—more humble and more understanding person.

Indeed, respondent's own testimony indicates that she is not amenable to treatment. Accordingly, we find no clear error in the trial court's determination that respondent could not reasonably be expected to provide proper care and custody for the children within a reasonable time considering the children's ages.

B. MCL 712A.19b(3)(j)

MCL 712A.19b(3)(j) permits termination of parental rights when:

There is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if he or she is returned to the home of the parent.

The evidence that respondent suffered from delusions, which manifested themselves in conduct such as telling the older child that his legal father was trying to kill him, both before and after the child's stepfather died. This supports the trial court's determination that respondent was psychologically abusive to that child. Considered in light of other evidence that respondent's delusions caused her to subject her child to physical inspections and treatment for a medically unsubstantiated mold condition, the trial court did not clearly err in finding that it was reasonably likely that the child would be harmed if returned to her home. We reach this same conclusion regarding the younger child, given that evidence regarding how a parent treats one child is probative of how the parent may treat other children. *In re Powers*, 208 Mich App 582, 588; 528

NW2d 799 (1995). Therefore, the trial court did not clearly err in finding that MCL 712A.19b(3)(j) was established with respect to both children.

II. BEST INTEREST OF THE CHILDREN

Respondent next argues that her psychological condition had improved by the time of the best-interest hearing, and that the trial court accordingly erred when it determined that terminating her parental rights was in the children's best interest. We disagree.

Under MCL 712A.19b(5), once the court finds that a statutory ground for termination has been established, it shall order termination of parental rights if it finds "that termination of parental rights is in the child's best interests[.]" The trial court's best-interest decision is reviewed for clear error. *JK*, 468 Mich at 209; *In re Jones*, 286 Mich App 126, 129; 777 NW2d 728 (2009). The trial court may consider the entire record in evaluating a child's best interests. *In re Jenks*, 281 Mich App 514, 516; 760 NW2d 297 (2008).

While a child's placement with his or her family is a factor for the court to consider when assessing the child's best interests, *In re Mason*, 486 Mich 142, 164; 782 NW2d 747 (2010), it is clear from the trial court's decision that it considered that factor in this case. The court found that "[g]iven the facts and circumstances of the children's lives with [r]espondent, it would create emotional harm if they had concerns about returning to their mother's care, even for parenting time." We find no clear error in the trial court's finding that the children's emotional needs warranted severing the possibility that they could be returned to respondent, even for parenting time, or in the court's ultimate determination that termination of respondent's parental rights was in the children's best interests.

Affirmed.

/s/ Pat M. Donofrio
/s/ Kathleen Jansen
/s/ Douglas B. Shapiro